Special Term of the Supreme Court,
Monroe County, New York

Hon. David O. Boehm, Presiding

John Mansour and
Helga-Roswitha Mansour,

Plaintiffs

v.

ORDER
Index #13559-87

Robert Abrams, Ronald Goldstock and
Martin Marcus,

Defendants

Upon the Defendants' motion for summary judgment of August 28, 1990, and the affidavits of: Diane M. Cecero, sworn to August 28, 1990, Robert Abrams, sworn to August 21, 1990, Ronald Goldstock sworn to August 24, 1990, and Martin Marcus, sworn to August 24, 1990, and the exhibits attached thereto — all in support of Defendants' motion and in opposition to Plaintiffs' cross-motions, and

Upon the Plaintiffs' cross-motion for summary judgment of November 1, 1990, and the affidavit of John Mansour, sworn to November 1, 1990, and the exhibits attached thereto in support of the cross-motion and in opposition to Defendants' motion for summary judgment, and upon Plaintiffs' second cross-motion of November 28, 1990, and the affidavit of John Mansour sworn to November 28, 1990 in support thereof, and the affidavit of Diane M. Cecero sworn to November 30, 1990 in opposition, and

Upon the briefs and oral argument of the respective parties on April 11, 1991 [Diane M. Cecero, Esq., Assistant Attorney General appearing for the Defendants, and John Mansour, Esq., *pro se* and as attorney for Helga-Roswitha Mansour], and

Upon the decision of this Court dated May 22, 1991, it is hereby ordered:

1. Defendants' motion to dismiss these paragraphs of the amended complaint, is granted: 29(b), 29(c), 29(e), 29(f) and so much of 29(g) by which Plaintiff alleges expressions which pertained to requests for expert investigation of a Cummins engine;

2. Defendants' motion to dismiss these paragraphs of the amended complaint, is denied: 29(a), 29(d) and so much of 29(g) by which Plaintiff alleges expressions which pertained to the deliberate failure, as a matter of policy, to preserve exculpatory evidence;

3. Defendants' and Plaintiffs' motions for summary judgment on the merits are denied;

4. Defendants' motion for summary judgment on the grounds of qualified immunity is denied, with leave to Defendants to renew that motion after trial;

5. Plaintiffs' motion to further amend the complaint to add, as an additional remedy, reinstatement with back pay and benefits is granted only as to prospective reinstatement, and is denied as to retroactive reinstatement with full back pay and benefits.

Dated: June 13, 1991

s/ David O. Boehm

David O. Boehm
Justice of the Supreme Court

I, John Mansour, Esq., attorney, certify that I have compared this copy with the original order filed, and that it is a true copy.

s/ John Mansour